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09/591,769	06/12/2000	Alain T. Rappaport	MS320715.02/MSFTP1909USA	4769
27195 7590 02/25/2008 AMIN, TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114				
EXAMINER PORTER, RACHEL L				
ART UNIT		PAPER NUMBER		
3626				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/591,769

Applicant(s)

RAPPAPORT, ALAIN T.

Examiner

RACHEL L. PORTER

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-20, 38-49 and 57-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-20, 38-49, and 57-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-884)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment received 1/10/05. Claims 1-7, 10-20, 38-49, and 57-60 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5-7, 10, 10, 20, 38-39, 41-46, 48-49, 58, and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Bessette (US Patent No. 6,263,330).

[claim 1] Bessette teaches a method comprising:

- receiving information about a patient, utilizing a computer, the information about the patient including diagnosis information based upon a diagnosis (i.e. current medical condition of the patient) performed by a health care provider; (col. 4, lines 18-34, col. 7, lines 22-51; col. 14, line 40-col. 15, line 3)

- performing a query function, utilizing the computer, to retrieve from a database a list of data sources based upon the received information about the patient; and (col. 7, line 52-col. 8, line 4; col. 15, lines 25-67)
 - o the computer being operable to:
 - o generate a set of queries containing query criteria based on the received information about the patient, the set of queries comprises being selected a set of a set of existing queries that correspond to the received information about the patient. and (Figure 10; col. 12, lines 1-67; col. 15, lines 62-col. 16, lines 29)
 - o automatically execute the set of queries to retrieve from the database the list of data sources matching the query criteria, (Figure 10; col. 16, lines 5-29)
- generating at least one document utilizing the computer, the at least one document containing the list of data sources retrieved from the database, (col. 12, lines 17-32; col. 13, lines 1-43; Figures 6A-C)

[claim 5] Bessette teaches a method wherein the information about the patient further comprises information selected from the group consisting of the patient's personal information, prescription information, laboratory information, procedures information, materials and supplies information and injection information. (Figures 6; col. 12, lines 18-43)

[claims 6-7] Bessette teaches a method wherein a data source is referenced by an address corresponding to a location where the data source resides and wherein the

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address corresponding to the location where the data source resides comprises a Uniform Resource Locator (URL). (col. 13, lines 23-38; col. 13, line 66-col. 14, line 21)

[claim 10] Bessette teaches a method wherein generating the set of queries comprises constructing a set of queries based on the information received. (col. 15, lines 25-67)

[claim 20] Bessette teaches a method wherein the query criteria include contextual information applicable to the diagnosis information received. (col. 7, line 52-col. 8, line 4; col. 11, lines 25-67; col. 15, lines 4-67)

[claim 38] Bessette teaches a system comprising:

- a first database to store multiple lists of content links, each list corresponding to a specific code; and (col. 8, line 52-col. 9, line 36; col. 13, lines 39-col. 14, line 21; col. 15, lines 4-24; col. 16, lines 5-29; Figures 3,5)
- a first server to receive information about a patient from at least one source, said information about the patient including at least one code, the first server to retrieve from the first database at least one list of content links based upon the at least one code received, (col. 8, line 52-col. 9, line 36; col. 13, lines 39-col. 14, line 21; col. 15, lines 4-24; col. 16, lines 5-29), the first server to generate at least one document containing the at least one list of content links retrieved from the first database, wherein the first server is to select a set of existing queries that correspond to

information about the medical procedure to retrieve from the first database the at least one list of content links. (col. 15, line 52-col. 16, line 29; Figures 3,5)

[claim 39] Bessette teaches a system wherein the at least one document generated is stored in a second database. (col. 13, lines 4-38; col. 15, lines 4-46)

[claim 41] Bessette teaches a system wherein the computer network is the Internet. (col. 6, line 64-col. 7, line 9)

[claim 42] Bessette teaches the system of claim 38, wherein the first server includes a machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations, the instructions to comprise:

- logic to receive the information about the patient from the at least one source; (col. 4, lines 18-34, col. 7, lines 22-51; col. 14, line 40-col. 15, line 3)
- logic to generate a set of queries based upon the at least one definition that corresponds to the at least one code received; and (col. 13, lines 23-col. 14, line 20; col. 15, lines 4-67)
- logic to execute the set of queries to retrieve from the first database the at least one list of content links that corresponds to the set of queries. (col. 13, lines 23-col. 14, line 20; col. 15, lines 4-67)

[claim 43] Bessette teaches a system wherein the at least one list of content links that is stored in the first database is identified using a set of queries generated the at least one definition that is associated with the respective at least one code. (col. 13, line 39-col. 14, lines 20; col. 15, lines 4-24, line 52-col. 16, line 29)

[claims 44-45] As per the limitations of claims 44-45, see Bessette: col. 11, line 40-56; col. 13, lines 23-col. 14, line 21; col. 15, line 4-col. 16, line 29.

[claim 46] Bessette teaches a machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations comprising:

- receiving information about a patient, the information about the patient including diagnosis information based upon a diagnosis of the patient performed by a health care provider; (col. 4, lines 18-34, col. 7, lines 22-51; col. 14, line 40-col. 15, line 3)
- performing a query function to retrieve from a database a list of data sources based upon the received information about the patient; (col. 7, line 52-col. 8, line 4; col. 15, lines 25-67), the machine being operable to:
 - o generate a set of queries containing query criteria based on the received information about the patient, the set of queries comprises being selected a set of a set of existing queries that correspond to the received information about the patient. and (Figure 10; col. 12, lines 1-67; col. 15, lines 62-col. 16, lines 29)
 - o automatically execute the set of queries to retrieve from the database the list of data sources matching the query criteria, (Figure 10; col. 16, lines 5-29)
 - o generating at least one document utilizing the computer containing the list of data sources retrieved from the database, (col. 12, lines 17-32; col. 13, lines 1-43; Figures 6A-C)

[claim 48] Bessette teaches a machine-readable medium wherein the diagnosis information comprises at least one description describing the patient's conditions or problems based upon the diagnosis performed by the health care provider. (col. 4, lines 18-34, col. 7, lines 22-51; col. 12, lines 18-42; col. 14, line 40-col. 15, line 3)

[claim 49] Bessette teaches the machine-readable medium of claim 48 wherein performing the query function comprises:

- generating a set of queries containing query criteria based on the received information about the patient; and (Figures 2,4,6,8-9; col. 12, lines 1-67; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)
- executing the set of queries to retrieve from the database the list of data sources matching the query criteria. (Figures 2,4,6,8-9; col. 11, lines 11-56; col. 13, lines 1-43; col. 14, line 40-col. 15, line 3)

[claim 58] Bessette teaches a method wherein contextual information includes at least one of a weight, an age and a sex. (col. 11, lines 25-39: e.g. age, group, sex)

[claim 60] System claim 60 repeats the subject matter of claim 1 as a set of "means-plus-function" elements rather than a series of steps. As the underlying process has been shown to be fully disclosed by the teachings of Bessette in the rejection of claim 1, it is readily apparent that the Bessette reference includes a system to perform the recited functions. As such, these limitations are rejected for the same reasons provided in the rejection of claim 1 and incorporated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 11-16, 47, 57, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Besette (US Patent No. 6,263,330) in view of Evans (US Patent No. 5,924,074).

[claims 2-4] Besette teaches a method that utilizes a plurality of medical codes (i.e. medical acts codes/treatment codes) to retrieve store and/or retrieve patient information relating to a patient's condition (col. 13, lines 52-65; col. 15, lines 4-24), but does not expressly disclose the use of diagnostic codes, such as ICD codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11, lines 14-27). At the time of the Applicant's invention, it would have been obvious to one of ordinary in the art to combine the teachings of Besette with the teachings of Evans to specifically include diagnostic codes (e.g. ICD codes) among the patient information. One would have been motivated to include this feature to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients. (See Besette: col. 3, lines 27; col. 4, lines 18-

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53)

[claims 11-16]

Bessette teaches a method that utilizes a plurality of medical codes (i.e. medical acts codes/treatment codes) to retrieve store and/or retrieve patient information relating to a patient's condition (col. 13, lines 52-65; col. 15, lines 4-24), but does not expressly disclose the use of diagnostic codes, such as ICD codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11, lines 14-27). Evans further discloses that descriptions of diagnosis (i.e. diagnosis identifier) may be determined/derived from information received. (Figures 18,20; col. 11, lines 10-30) At the time of the Applicant's invention, it would have been obvious to one of ordinary in the art to combine the teachings of Bessette with the teachings of Evans to specifically include diagnostic codes/identifiers (e.g. ICD codes) among the patient information received. One would have been motivated to include this feature to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients. (See Bessette: col. 3, lines 27; col. 4, lines 18-53)

[claim 47] The limitations of claim 47 are addressed by the rejection of claims 11-16 and 46, and incorporated herein.

[claim 57] Bessette teaches a system wherein the diagnosis description describes an

agent that is causally related to the diagnosis information. (col. 7, lines 52-col. 8, line 4; col. 12, lines 18-42—e.g. allergies, tissue antigens, genetic deficiencies)

[claim 59] Bessette describes a method wherein the user may submit a query to generate documents containing medical information and further refine the query based upon the medical information/documents received. (col. 15, lines 25-33; line 52-col. 16, line 29). Bessette does not expressly disclose that the documents retrieved include parent and child diagnostic codes, but does teach a method for retrieving documents containing medical/treatment code information (i.e. list of diagnostic codes) used to categorize patients (col. 13, lines 23-65; col. 15, lines 4-24—i.e. a hierarchy of medical/treatment codes). Evans discloses a method that retrieves documents that contain a hierarchical list of diagnostic codes (i.e. parent/child diagnostic codes) and wherein the parent (i.e. generic) or child (i.e. specific) codes may be selected. (Figure 20—e.g. Asthma (493); Asthma unspecified (493.9). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Bessette with the teaching of Evans to provide a listing of hierarchical diagnostic codes (i.e. parent/child diagnostic codes). One would have been motivated to include this feature to ensure that the patient record provides the most accurate and detailed information regarding the patient's medical condition(s) (e.g. to avoid possible misdiagnoses in the future). (See Bessette: col. 6, lines 44-46)

6. Claims 17-19 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bessette in view of Rozen et al (USPN 6,073,106)

[claims 17-18] Bessette teaches a system and method for allowing users (e.g. healthcare providers) to query one or more databases and to retrieve documents regarding patient information, but does not expressly disclose that the patient may access the system to access his/her own medical records and to provide feedback on his/her medical records. Rozen et al teach a system wherein the patient may access his/her data via a network that includes a WAN or the Internet (col. 4, lines 33-col. 5, line 9; col. 5, lines 21-41; col. 7, lines 4-39). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bessette with the teaching of Rozen to allow patients to access their medical data via a network and to provide feedback regarding those medical files. One would have been motivated to do this to enable the patient to provide up-to-date data regarding medical conditions, to ensure that the medical history is as accurate as possible for treating healthcare providers. (See Rozen, col. 1, lines 16-45; col. 2, line 4-38; col. 4, line 66- col. 5, line 11)

[claim 19] Bessette discloses a method wherein the computer network is selected from the group consisting of a local area network, a wide area network, and the Internet. (col. 6, line 64-col. 7, lines 21)

[claim 40] The limitations of claim 40 are addressed by the rejection of claims 17-18 and 38, and incorporated herein.

Response to Arguments

7. Applicant's arguments filed 1/10/2005 have been fully considered but they are not persuasive.

(A) The rejection under 35USC 101 has been withdrawn.

(B) Applicant argues that Bessette does not perform query functions, as required by the independent claims of the present invention.

In response, the Examiner respectfully disagrees with applicant's interpretation of the prior art. Figure 10 of Bessette shows that user submits and the server performs query functions. (See also col. 15, lines 54-col. 16, line 4)

Furthermore, Bessette discloses that the NMSDR data may be presented to the user as a www document, present several medical categories of medical information pertinent to the individual (e.g. generating at least one document utilizing the computer containing the list of data sources retrieved from the database—See. Bessette: col. 12, lines 17-32; col. 13, lines 1-43; Figures 6A-C)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Singhal (US 6,370, 527) discloses a method for merging and ranking query results from disparate sources.
- Spackman (US 6,438,533) discloses a method and system for retrieving medical data using a query translator.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **RACHEL L. PORTER** whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./
Examiner, Art Unit 3626

/Joseph Thomas/
Supervisory Patent Examiner, Art Unit 3626